

FILED
Clerk
District Court

AUG 15 2007

For The Northern Mariana Islands
By _____
(Deputy Clerk)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

JOHN S. PANGELINAN

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

Case No. CV-07-0025

**ORDER DENYING
MOTION FOR RECONSIDERATION**

THIS MATTER came before the court on August 15, 2007, on petitioner's motion for reconsideration of the court's order denying his motion to vacate his sentence for two counts of obstruction of a court order. *See* Order Denying Motion Under 28 U.S.C. § 2255 (July 27, 2007).

THE COURT, having considered the petitioner's arguments and having reviewed the record, **DENIES** the petitioner's motion for reconsideration. In this district, a motion for reconsideration is treated as a motion under Federal Rule of Civil Procedure 60 ("Rule 60"). Pursuant to Rule 60, the court may relieve a party from an order for: "(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud . . . , misrepresentation, or other misconduct of an adverse party; . . . or any other reason justifying relief from the operation of the judgment."


Here, the petitioner is requesting the court to overrule the United States Court of Appeals for the Ninth Circuit ("Ninth Circuit"), which held that this court lacks subject matter jurisdiction to entertain Mr. Pangelinan's motion under 28 U.S.C. § 2255 while his appeal is pending in the

1 Ninth Circuit. See Order, *United States v. Pangelinan*, No. 07-15355 (9th Cir. June 12, 2007). Such a
2 request does not fall under the purview of a Rule 60 motion. Furthermore, this court lacks subject
3 matter jurisdiction to consider overruling the Ninth Circuit's order.
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5 Accordingly, the petitioner's motion is **DENIED**.

6 **IT IS SO ORDERED.**

7 DATED this 16 day of August, 2007.

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11 **DAVID A. WISEMAN**
12 U.S. District Court Designated Judge
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